

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Fox Shiver LLC.

Plaintiff

Case No: 24-cv-1962-LGS

v.

Individuals, Corporations, Limited  
Liability Companies, Partnerships,  
and Unincorporated Associations Identified  
on Schedule A to the Complaint,

Defendants.

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**[PROPOSED] PRELIMINARY INJUNCTION ORDER**

THIS MATTER comes before the Court on the application of Fox Shiver LLC (“Plaintiff”), brought by way of Order to Show Cause, for entry of a Preliminary Injunction (the “Application”) against the Defendants identified on the Schedule A to the Complaint (collectively, the “Defendants”); and

THE COURT having reviewed the papers in support of the Application, and following arguments by all counsel present at the May 15, 2024, hearing, finds that Plaintiff meets the criteria for entry of preliminary injunctive relief;

THE COURT further finds it has personal jurisdiction over the Defendants because the Defendants directly target their business activities toward consumers in the United States, including New York, offering to sell and ship products into this Judicial District. Specifically, the Defendants are reaching out to do business with New York residents by operating one or more commercial, interactive online storefronts operated through New York based Etsy, Inc. (“Etsy”) and its e-commerce platform, through which New York residents can purchase products, designs,

and/or digital files bearing or otherwise containing Plaintiff's artwork (the "Infringing Products") incorporating at least one of Plaintiff's copyrighted work of art as identified within Plaintiff's Complaint (the "Subject Works"). [Doc. No. 1].

THIS COURT has determined that the evidence submitted in support of the Application establishes that Plaintiff has a likelihood of success on the merits, that no remedy at law exists, and that Plaintiff will suffer irreparable harm if a preliminary injunction is not granted. The continued and unauthorized use of Plaintiff's copyrights irreparably harms Plaintiff through loss of exclusivity, loss of future sales, and damage to Plaintiff's reputation. Money damages fail to address such damage. Further, the public interest is served by entry of this Preliminary Injunction to prevent Plaintiff's interest to its copyrights and to protect the public from being deceived and defrauded by Defendants' infringing actions. For these reasons, and the findings of fact and conclusions of law set forth in the Temporary Restraining Order, and as further clarified or modified [Doc. 9], the issuance of a preliminary injunction is warranted and that such injunction is warranted under Federal Rule of Civil Procedure 65.

NOW THEREFORE, on this 28 day of May, 2024, this Court ORDERS that:

1. Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under or in active concert with them be preliminarily enjoined and restrained from:
  - a. Using or otherwise exploiting the Subject Works, or any copyrights thereto, in any manner;
  - b. Passing off, inducing, or enabling others to sell or pass off any not produced under the authorization, control, or supervision of Plaintiff and approved by Plaintiff for sale using the Subject Works;

- c. Further infringing the Subject Works, or any copyrights thereto;
  - d. Using, linking to, transferring, selling, exercising control over, or otherwise owning the Online Storefronts, or any other domain name or online market place account that is being used to sell or is the means by which Defendants could continue to sell Infringing Products; and
  - e. Within five (5) days of receipt of this Order, Etsy, and any Financial Institutions (as defined in the TRO, Doc. No. 9) servicing a Defendant or their Online Storefront are directed to disable and cease providing services through which Defendants engage in the sale of Infringing Products, including any accounts associated with the Defendants.
2. Defendants and any persons in active concert or participation with them who have actual notice of this Order shall be preliminary enjoined from transferring or disposing of any money or other assets until further ordered by this Court.
3. Etsy shall, within five (5) business days of receipt of this Order, for any Defendant account:
- a. Locate all accounts and funds connected to and related to Defendants, Defendants' Online Storefronts, including, but not limited to, any AliPay, Alipay/GoAlipay, Amazon, Bank of China, Coinbase, DHgate, eBay, HyperWallet, JD.com, Joom, Lakala, LianLian, OFX, Paxful, PayEco, Payoneer, PayPal, PingPong, SellersFunding, Shopify, Stripe, Union Mobile/UmPay/UmPay2, Walmart, Wise/TransferWise, Wish, and World First accounts; and
  - b. Restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.

4. Any Financial Institutions, including banks, savings and loan associations, payment processors, money transmitters, or other financial institutions, for any Defendant or Online Storefront, shall within five (5) business days of receipt of this Order:
  - a. Locate all accounts and funds connected to the Defendants, Defendants' Online Storefronts, including but not limited to, any accounts connected to the information listed in Schedule A to the Complaint, and
  - b. Restraine and enjoin such accounts from receiving, transferring or disposing of any money or other of Defendants' assets until further ordered by this Court.
5. Schedule A to the Complaint, Plaintiff's *ex parte* Applications for entry of a Temporary Restraining Order, Preliminary Injunction, a Restraint on the Transfer of Assets, Expedited Discovery, and all associated documents annexed thereto, including Exhibits, Declarations, and Proposed Orders are now unsealed. The Clerk of Court is directed to unseal ECF Nos. 1-8 in their entirety.
6. The Temporary Restraining Order [Doc. No. 9] is now unsealed. The Clerk of Court is directed to unseal ECF No. 9 in its entirety.
7. Any Defendant that is subject to this Order may appear and move to dissolve or modify this Order on seven (7) days' notice to Plaintiff, or on shorter notice as set by this Court.
8. The Five Thousand Dollars (\$5,000.00) bond posted by Plaintiff shall remain with the Court until a final disposition of this case, or until this Preliminary Injunction is terminated.

Dated: May 28, 2024  
New York, New York



LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE